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DURBIN *v.* ROANOKE BLDG. CO. et al.

Jan. 16, 1908.

[60 S. E. 86.]

1. Boundaries—Description—Highways.—Where a deed describes a lot as extending to a street, thereby conveying title to the center of the street, subject to an easement of the right of way, a subsequent deed, by the grantee in the earlier deed, conveying the same lot by courses and bounds, but not calling for the street line as a boundary, will be held to also convey title to the center of the street.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 8, Boundaries, §§ 123-130.]

2. Same—Evidence—Presumptions.—While the lot owner and his alienee were allowed to keep possession many years and improve land in front of the lot included in what was formerly designated as a street, the presumption is, as against a judgment creditor of a former owner, that such owner intended to convey the fee to the middle of the former street.

BLACKWOOD COAL & COKE CO. *v.* JAMES.

Jan. 16, 1908.

[60 S. E. 90.]

1. Master and Servant—Injury to Servant—Sufficiency of Declaration.—In an action against a mineowner for the death of plaintiff's decedent, who was killed while employed as a driver in a coal mine, a declaration held on demurrer to be sufficiently full and certain to be understood by defendant and the jury and to enable the court to say if the facts stated were proved whether plaintiff could recover.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 34, Master and Servant, §§ 816-836.]

2. Evidence—Opinion Evidence—Disposition of Animal.—In an action for the death of plaintiff's decedent, who was employed as a driver in a mine, a question as to the general character and condition of the mule driven by decedent, whether it was wild, safe, or dangerous, or what its habits were, did not call for the witness' opinion, but for a statement of facts based upon his knowledge.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 20, Evidence, §§ 2149-2185.]

3. Exceptions, Bill of—Authority to Make.—Evidence is not a part of the record, unless made so by a proper bill of exception the making of which is a judicial act, and the trial judge, who must indicate his approval of the correctness of the evidence incorporated therein by authentication under his own hand, cannot delegate that act to the clerk, and hence a paper purporting to contain the evidence in a case,